

1984 WL 249810 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

**January 19, 1984**

**\*1 SUBJECT: Taxation and Revenue—Extension of Time in which to File Agricultural Classification**

The county governing body is without authority to delegate the duty to determine whether an extension is to be granted for the time to file the application for agricultural classification.

**APPLICABLE LAW: §§ 12-43-220(d)(3) and 4-9-30, 1976 Code of Laws.**

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**QUESTION:**

Can the county council delegate the authority to extend the time in which applications for agricultural classification are to be made?

**DISCUSSION:**

Section 4-9-30 prescribes the powers of the county council. The same, however, are:

‘\* \* \* subject to the general law of this State \* \* \*.’

The general law, § 12-43-220(d)(3) requires a written application as a condition for the agricultural classification. The application is to be made before May first of the applicable year. The section further provides:

‘\* \* \* provided, however, the county governing body may extend the time for filing upon a showing satisfactory to it, that the person had reasonable cause for not filing on or before May first.’

The controlling language is that the reasonable cause must be shown to the county governing body and the same must be satisfactory to it (the governing body).

Under settled rules of construction, in construing a statute the legislative intent is controlling. (See cases collected in 17 S.C.D., Statutes, key 180, et seq.)

Here, the General Assembly has by clear language required that the showing be to the governing body and that it be satisfactory to that body. Further evidence of legislative intent is found in § 12-43-220(c). It relates to the residential classification and a written application is also required. The section in part provides that:

‘Notwithstanding the provisions for application herein set forth, the governing body of the county concerned as an alternative may elect, determine and direct that the tax assessor shall determine and designate the various properties to be subject to the special assessment ratio provided in this subsection.’

By express language the responsibility for the residential classification can be delegated, however, there is no similar provision for the agricultural classification.

The extension, if granted, must be as provided by statute.

'In general, the powers and duties of officers are prescribed by the constitution or by statute, or both, and they are measured by the terms and necessary implication of the grant, and must be executed in the manner directed and by the officer specified.

\* \* \*. ' 63 Am.Jur.2d, Public Officers and Employees, § 263, p. 782.

The legislative intent is thus clear that the county governing body is the body with authority to extend the time in which an application for agricultural classification can be made.

#### CONCLUSION:

The county governing body is without authority to delegate the duty to determine whether an extension is to be granted for the time to file the application for agricultural classification.

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